

Electronically Filed

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BARBARA FORLASTRO and ROBERT G. FORLASTRO,
as co-administrators of The Estate of
ROBERT J. FORLASTRO,

**Case No.: 1:07-CV-3288
(RPP) (FM)**

Plaintiffs,

Jury Trial Demanded

ANSWER

-against-

JAMES COLLINS,

Defendant.

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Defendant, JAMES COLLINS, by his attorneys, MEAD, HECHT, CONKLIN & GALLAGHER, LLP, answering the plaintiffs' complaint, respectfully alleges upon information and belief:

ANSWER TO JURISDICTIONAL STATEMENT

FIRST: Defendant denies each and every allegation in the form alleged.

ANSWER TO THE CAUSE OF ACTION: NEGLIGENCE

SECOND: Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph designated "1" except admits that on December 6, 2004, defendant, JAMES COLLINS, was the operator of a truck with authority to operate said truck given to him by his employer, NEW YORK STATE ELECTRIC AND GAS CORPORATION.

THIRD: Denies each and every allegation contained in paragraphs designated "2", "4", "5", "6" and "7" of the plaintiffs' complaint.

FOURTH: Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "3" and "8" of the plaintiffs' complaint.

FIRST AFFIRMATIVE DEFENSE

FIFTH: As and for a first affirmative defense, this answering defendant alleges that the plaintiffs' and/or decedent's injuries and/or damages were caused in whole or in part by plaintiffs' and/or decedent's own culpable conduct, contributory negligence and/or assumption of risk, and plaintiffs' claims are therefore barred or diminished to the extent that such culpable conduct, contributory negligence and/or assumption of risk contributed to the occurrence and the injuries and/or damages claimed therefrom.

SECOND AFFIRMATIVE DEFENSE

SIXTH: As and for a second affirmative defense, this answering defendant alleges that defendant's liability is limited pursuant to CPLR section 4545.

THIRD AFFIRMATIVE DEFENSE

SEVENTH: As and for a third affirmative defense, this answering defendant alleges that the damages sustained by plaintiffs, if any, were caused or contributed to, in whole or in part, by intervening and superseding causative factors and therefore the claims of plaintiffs against these defendant should be barred.

FOURTH AFFIRMATIVE DEFENSE

EIGHTH: The applicable law to this action is that of New York.

WHEREFORE, the defendant, JAMES COLLINS, demands judgment against the plaintiffs, dismissing the complaint together with the costs and disbursements of this action.

Dated: Mamaroneck, New York
April 27, 2007

Yours, etc.,

MEAD, HECHT, CONKLIN & GALLAGHER, LLP
Attorneys for Defendant - JAMES COLLINS

S/

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